

Message Text

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ACTION EUR-12

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TO SECSTATE WASHDC PRIORITY 6569
AMEMBASSY BONN PRIORITY
INFO AMEMBASSY BERLIN
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E.O.11652: NA

TAGS: PGOV, BQG, UR

SUBJECT: BERLIN POLITICAL REACTION TO HUEBNER CASE: CDU APPEALS TO
PRESIDENT CARTER, PRESIDENT GISCARD D'ESTAING AND PRIME MINISTER
CALLAGHNA

REF: USBERLIN 0730

SUMMARY: WEST BERLIN PRESS HAS CONTINUED TO GIVE ATTENTION
DAILY TO HUEBNER CASE, FOCUSING ON REACTIONS OF BERLIN POLITICIANS.
BERLIN CDU CHAIRMAN LORENZ HAS CALLED UPON BERLIN HOUSE TO MAKE
DECLARATION CONDEMNING GDR ACTIONS. SPD HAS REFUSED TO PARTICI-
PATE IN JOINT STATEMENT. SUBJECT WILL BE DEBATED BEFORE BERLIN
HOUSE APRIL 6. LORENZ HAS SENT IDENTICALLY WORDED LETTERS TO
PRESIDNET CARTER, PRESIDENT GISCARD D'ESTAING AND PRIME MINISTER
CALLAGHAN REQUESTING APPROPRIATE AND EFFECTIVE ALLIED ACTION ON
HUEBNER'S BEHALF. MISSION RECOMMENDS COMMON LINE FOR REPLY TO
LORENZ BE WORKED OUT IN BERLIN BY MISSIONS. END SUMMARY.

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1. THE BERLIN PRESS HAS CONTINUED TO GIVE DAILY COVERAGE
TO THE CASE OF NICO HUEBNER, THE 22 YEAR OLD EAST
BERLINER WHO WAS ARRESTED FOR CLAIMING IMMUNITY FROM IN-
DUCTION INTO THE GDR ARMY ON THE GROUNDS THAT ALL BERLIN HAS A
DEMILITARIZED STATUS UNDER ALLIED LAW. BOTH CDU
CAUCUS LEADER HEINRICH LUMMER AND SPD PARTY CHAIRMAN

GERD LOEFFLER HAVE ISSUED STATEMENTS CALLING FOR THE RELEASE OF HUEBNER FROM JAIL. LOEFFLER'S STATEMENT, WE HAVE BEEN TOLD BY SPD SOURCES, WAS MADE PRIMARILY AS A NECESSARY POLITICAL REACTION TO THE STATEMENT BY LUMMER. THE SPD HAS NOT WANTED TO PLAY UP THE ISSUE SINCE, AS SENAT CHANCELLERY CHIEF GERHARD HEIMANN TOLD MISSION OFFICER APRIL 4, SPD AND SENAT RECOGNIZE THAT AS A PRACTICAL MATTER, NOTHING CAN BE DONE TO ASSIST HUEBNER, AND ARGE SCALE PUBLIC DISCUSSION OF INCIDENT COULD PROVE HARMFUL TO GOVERNMENT (AND, OF COURSE, THE SPD AS A WELL). HEIMANN HAS ALSO ADVISED US THAT CDU REPRESENTATIVE DR. BIEL REQUESTED HIM TO EXPLAIN THE SENAT'S POSITION ON THE HUEBNER INCIDENT BEFORE THE HOUSE COMMITTEE ON FEDERAL AND ALL BERLIN AFFAIRS ON APRIL 3. EHIMANN HAD NOT WISHED TO TESTIFY ON SUBJECT, BUT BRIEFLY RE-COUNTED FACTS OF THE CASE AS HE KNEW THEM FROM THE PRESS (REFTEL) AND CONCLUDED BY STATING THAT SENAT CON-SIDERED WHOLE MATTER TO BE ONE WHICH ALLIES MUST HANDLE, HEIMANN SAID THE SENAT WOULD NOT TAKE A POSTION UNTIL THE ALLIES HAD COMPLETED THEIR CONSULTATIONS AND MADE THEIR VIEWS KNOWN TO THE SENAT. GIST OF HEIMANN'S TESTI-MONY TO FEDERAL AND ALL BERLIN AFFAIRS COMMITTEE WAS RE-PROTED IN PRESS APRIL 4.

2. BERLIN CDU CHAIRMAN AND PRESIDENT OF THE HOUSE OF REPRESENTATIVES PETER LORENZ ADVISED ALLIED SENAT LIAISON
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OFFICERS APRIL 4 THAT HE AHD WRITTEN IDENTICALLY WORDED LETTERS TO PRESIDENT CARTER, PRESIDENT GISCARD D'ESTAING AND PRIME MINISTER JAMES CALLAGHAN REQUESTING APPROPRIATE ACTION IN THE HUEBNER CASE TO BRING ABOUT THE RELEASE OF HUEBNER FROM JAIL AND TO MAKE CLEAR THAT THE ALLIES CON-SIDER THE DEMILITARIZATION LAWS TO APPLY TO ALL OF BERLIN, THEREBY DEMONSTRATING THE CONTINUED INTEGRITY OF THE ENTIRE CITY'S STATUS. LORENZ PROVIDED COPIES OF THE LETTERS TO THE THREE ALLIED SENAT LIAISON OFFICERS.

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3. FOLLOWING IS MISSION'S INFORMAL TRANSLATION OF LORENZ'
LETTER TO PRESIDENT CARTER.

BEGIN TEXT

(MY) DEAR MR. PRESIDENT:

MAY I DRAW YOUR SPECIAL ATTENTION TO AN OCCURRENCE
WHICH SERIOUSLY AFFECTS THE FOUR POWER RESPONSIBILITY
FOR ALL BERLIN. THIS OCCURRENCE MAY HAVE SERIOUS CON-
SEQUENCES FOR THE CITY IN THE LONG TERM IF THERE IS NO
ADEQUATE REACTION TO IT REGARDLESS OF THE PERSONAL FATE
OF THE INDIVIDUAL CONCERNED. A 22 YEAR OLD CITIZEN OF
THE EASTERN SECTOR OF BERLIN, NICO HUEBNER, REFERRING
TO THE DEMILITARIZED STATUS OF ALL BERLIN, HAS REFUSED
TO FOLLOW A CALL-UP ORDER TO THE NATIONAL PEOPLE'S
ARMY (NATIONALE VOLKSARMEE) OF THE GDR. CONSEQUENTLY,
HE HAS BEEN ARRESTED.

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THIS ARREST VIOLATES THE FOUR OCCUPATION POWERS
AGREEMENTS ON THE AREA OF GREATER BERLIN EXPLICITLY
CONFIRMED ONCE AGAIN IN THE QUADRIPARTITE AGREEMENT
OF SEPTEMBER 3, 1971. FURTHERMORE, IT DEMONSTRATES
AGAIN PUBLICLY BEFORE THE WHOLE WORLD THE GDR'S CLAIM
OF UNLIMITED CONTROL OVER THE EASTERN SECTOR OF THE
CITY. SUCH A CLAIM, AS WELL AS THE ARREST OF THE
YOUNG EAST BERLINER DRAWN FROM THIS CLAIM, IS ILLEGAL.

IN THE PAST PUBLIC VIOLATIONS AGAINST THE FOUR
POWER STATUS FOR ALL BERLIN, FOR INSTANCE BY MILITARY
PARADES OF THE NATIONAL PEOPLE'S ARMY IN BERLIN, HAVE
BEEN REJECTED WITH PUBLICLY STATED PROTESTS BY THE

THREE WESTERN POWERS. I AM OF THE OPINION THAT ALSO IN THE CASE OF NICO HUEBNER ADEQUATE STEPS BY THE THREE POWERS ARE NECESSARY. MOREOVER, THE ILLEGALLY ARRESTED MAN WHO REFERS TO THE LEGAL BASIS INITIATED BY ALL OCCUPATION POWERS IS, IN MY OPINION, ENTITLED TO ADEQUATE LEGAL PROTECTION BY THE OCCUPATION POWERS.

I WOULD BE MOST GRATEFUL TO YOU, DEAR MR. PRESIDENT, IF YOU WOULD USE THE OCCASION OF THIS HUMANLY TRAGIC AS WELL AS POLITICALLY SERIOUS CASE TO HAVE YOUR GOVERNMENT TAKE APPROPRIATE EFFECTIVE STEPS TO EFFECT THE RELEASE OF THE AFFECTED INDIVIDUAL AND ENSURE AT THE SAME TIME THE LEGAL SITUATION FOR ALL OF BERLIN.

ACCEPT, MR. PRESIDENT, THE EXPRESSION OF MY HIGHEST ESTEEM,

PETER LORENZ
PRESIDENT OF THE BERLIN HOUSE OF
REPRESENTATIVES
CHAIRMAN OF THE CHRISTIAN DEMOCRATIC
UNION OF BERLIN

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END TEXT

4. LORENZ ALSO CALLED UPON SPD AND FDP TO ENDORSE A JOINT STATEMENT BY THE HOUSE (WHICH WOULD HAVE BEEN ISSUED UNDER LORENZ' NAME), CONDEMNING THE GDR'S ARREST OF HUEBNER. THE BERLIN SPD CAUCUS DECIDED APRIL 4 NOT TO JOIN IN SUCH A STATEMENT. PUBLICLY THE SPD IS SAYING IT WOULD BE INAPPROPRIATE TO COMMENT ON THE CASE BEFORE THE ALLIES HAVE TAKEN A FORMAL POSITION ON IT. GOV- ING MAYOR STOBBE HAS INDICATED HE IS PREPARED TO DIS- CUSS THE ISSUE WITH THE THREE COMMANDANTS DURING THEIR REGULAR MEETING LATER THIS MONTH. PRIVATELY, WE HAVE BEEN TOLD, THE SPD AGREES ALMOST ENTIRELY WITH THE PRO- POSED CDU STATEMENT, BUT DOES NOT FEEL LORENZ IS THE APPROPRIATE MAN TO SPEAK FOR ALL OF BERLIN. REPORTEDLY THE FDP HAS AGREED TO GO ALONG WITH ITS COALITION PARTNER IN NOT ISSUING A JOINT ALL-PARTY STATEMENT, ALTHOUGH THERE IS CONSIDERABLE SYMPATHY IN THE FDP TO JOIN WITH THE CDU IN CONDEMNING THE GDR'S ACTIONS. BECAUSE THE GOVERNMENT PARTIES HAVE REFUSED TO PARTICI- PATE IN A JOINT STATEMENT, LORENZ AND THE CDU HAVE CALLED FOR A DEBATE (AKTUELLE STUDDE) UNDEER THE RUBRIC "RESISTANCE TO VIOLATIONS OF THE FOUR POWER STATUS" OF THE CITY ON THE HUEBNER CASE DURING THE APRIL 6 MEETING OF THE HOUSE OF REPRESENTATIVES.

5. AS INDICATED REFTEL, THE DEMILITARIZATION OF BERLIN

AS AGREED TO BY THE FOUR POWERS DOES NOT EXPRESSLY TREAT
THE QUESTION OF INDUCTION INTO MILITARY SERVICE OF
RESIDENTS OF (EAST OR WEST) BERLIN. HOWEVER, THE ALLIED
KOMMANDATURA (AK) (AS CONTINUED BY THE WESTERN POWERS
IN THE ABSENCE OF THE SOVIETS) HAS CLEARLY PRO-

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HIBITED COMPULSORY INDUCTION INTO MILITARY SERVICE BY
THE FRG OF WEST BERLIN RESIDENT. (THEY SUBJECT HAS
ARISEN IN CONNECTION WITH THE TREATMENT OF THE BUNDESWEHR
DESERTEES IN BERLIN, AND WHETHER A RESIDENT OF WEST
BERLIN CAN BE CONSIDERED A BUNDESWEHR DESERTER FOR
FAILURE TO REPORT IN RESPONSE TO A CALL FROM FRG MILITARY
AUTHORITIES).

6. CONCERNING EAST BERLIN, THE THREE WESTERN COMMANDANTS
PROTESTED TO THE SOVIET COMMANDANT IN 1962 THE EXTENSION
TO THE SOVIET SECTOR OF GDR LAWS ON COMPULSORY MILITARY
SERVICE. ALTHOUGH THE WESTERN PROTEST STATED THAT SUCH
CONSCRIPTION VIOLATED FOUR POWER AGREEMENTS ON MILI-
TARISM, IT GAVE THE IMPRESSION THAT THE ALLIES WERE IN
REALITY CRITICIZING THE SOVIETS FOR THEIR FAILURE TO 8.-
PLEMENT DEMILITARIZATION IN EAST BERLIN IN THE SAME
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SCRUPULOUS MANNER THAT THE ALLIES WERE IMPLEMENTING IT IN WEST BERLIN. WHILE THE ALLIES HAVE THROUGH THE YEARS PROTESTED GDR MILITARY MANIFESTATIONS IN EAST BERLIN, USBER HAS FOUND NO RECORD OF FURTHER ALLIED PROTESTS OF GDR INDUCTION OF EAST BERLIN RESIDENTS.

7. IT SHOULD BE RECALLED THAT IT IS THE LEGAL POSITION OF THE ALLIES THAT THE LEGISLATION OF THE AK, EVEN THAT PROMULGATED IN THE ABSENCE OF THE SOVIET MEMBER (I.E. SINCE 1948) CONTINUES TO HAVE EFFECT IN ALL OF BERLIN, INCLUDING THE EASTERN SECTOR, BUT THAT OWING TO SOVIET OBSTRUCTIONISM IT IS POSSIBLE TO CARRY OUT THE AK'S DECISIONS ONLY IN THE WESTERN SECTORS OF BERLIN. ACCORDINGLY, HAD THE AK EVER ISSUED A PRONOUNCEMENT THAT COMPULSORY INDUCTION OF BERLIN RESIDENTS INTO THE GDR ARMY WAS IN VIOLATION OF THE DEMILITARIZED STATUS OF BERLIN, WE COULD NOW ARGUE THAT THE SOVIETS (AND GDR) WERE IN VIOLATION OF AN AK LAW WHICH IS EFFECTIVE IN EAST BERLIN. IN CONNECTION WITH THE BUNDES-WEHR DESERTER QUESTION, THE AK ISSUED A DIRECTIVE (A BK/L) TO THE SENAT MAKING CLEAR THAT CUMPULSORY INDUCTION OF BERLIN RESIDENTS INTO THE FRG ARMY IS PROHIBITED DUE TO THE DEMILITARIZED STATUS OF BERLIN. HOWEVER, USBER HAS FOUND NO REPEAT NO AK LAWS, DIRECTIVE OR PRONOUNCEMENT OF INDUCTION INTO THE GDR ARMY. (COMMENT: THE PROTEST REFERRED TO ABOVE WAS FROM THE WESTERN COMMANDANTS IN THEIR INDIVIDUAL CAPACITIES AND NOT A PRONOUNCEMENT OF THE AK. WESTERN COMMANDANTS IN THEIR INDIVIDUAL CAPACITIES DO NOT PURPORT TO PROMULGATE LAW HAVING EFFECT IN THE EASTERN SECTOR).

8. THE END RESULT IS THAT TO THE BERLIN PUBLIC AND LOCAL GOVERNMENT THE BAN ON COMPULSORY INDUCTION OF LIMITED OFFICIAL USE

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BERLIN RESIDENTS INTO MILITARY SERVICE IS CONSIDERED A NATURAL AND NECESSARY CONSEQUENCE OF THE DEMILITARIZED STATUS OF BERLIN AS AGREED TO BY THE FOUR POWERS IN THE IMMEDIATE POST-WAR PERIOD. HOWEVER, WHILE IT COULD BE VIEWED AS A VERY NATURAL CONSEQUENCE, IT IS NOT A NECESSARY ONE; NOR IS IT ONE AGREED TO EXPRESSLY BY THE SOVIETS; NOR IS IT ONE WHICH THE AK HAS EXPRESSLY APPLIED TO THE EASTERN SECTOR - EVEN THOUGH THE ALLIES HAVE ALREADY PROTESTED ITS "VIOLATION " IN EAST BERLIN.

9. WE WILL CONTINUE TO CONSULT WITH OUR COUNTERPARTS ON AN URGENT BASIS TO DEVELOP RECOMMENDATIONS WHETHER OR NOT THE ALLIES SHOULD MAKE A PUBLIC STATEMENT OR PROTEST TO THE SOVIETS. WE ALSO BELIEVE BERLIN MISSIONS SHOULD PREPARE DRAFT RESPONSE TO LORENZ WITH THE OBJECTIVE OF IDENTICAL REPLIES FOR APPROVAL BY BONN GROUP AND CAPITALS. USBER'S CURRENT THINKING IS THAT THESE RESPONSES SHOULD BE GEARED TO THE FOLLOWING TWO POINTS WHICH AIM TO AVOID ENTRY INTO COMPLEX LEGAL ARGUMENT WITH SOVIETS OR BERLIN PRESS:

(A) THE WESTERN ALLIES HAVE LONG PROTESTED THE SOVIET ACTIONS AND INACTIONS PERMITTING VIOLATIONS OF THE DEMILITARIZED STATUS OF GREATER BERLIN; IN PARTICULAR THE ALLIES PROTESTED THE EXTENSION TO THE EASTERN SECTOR IN 1962 OF THE GDR LAW ON COMPULSORY INDUCTION INTO MILITARY SERVICE; (B) AS YOU ALL KNOW, THE SITUATION OF SOVIET OBSTRUCTION TO IMPLEMENTATION IN THE EASTERN SECTOR OF AK DECISIONS, NOTED BY THE AK ON 21 DECEMBER 1948, UNFORTUNATELY CONTINUES IN EFFECT.

10. THE BERLIN OFFICE OF THE SOCIET FOR HUMAN RIGHTS (GESELLSCHAFT FUER MENSCHENRECHTE) HAS ALSO WRITTEN TO THE ALLIED COMMANDANTS ASKING ALLIES TO LOOK INTO HEUBNER CASE BASED ON OUR FOUR POWER RESPONSIBILITIES CONCERNING DEMILITARIZATION. THE SOCIET CONCLUDES THAT THE SENTENCING OF HUEBNER "MUST BE PREVENTED". WE PROPOSE TO PREPARE DRAFT LOCALLY IN SAME TERMS DESCRIBED ABOVE.
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GEORGE

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